

ESTTA Tracking number: **ESTTA30927**

Filing date: **04/19/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	CYA Technologies, Inc.
Granted to Date of previous extension	04/20/2005
Address	Cyber Park100 Technology Drive Trumbull, CT 06611 UNITED STATES

Attorney information	Gene S. Winter, Esq. St. Onge Steward Johnston & Reens LLC 986 Bedford Street Stamford, CT 06905 UNITED STATES tm-pto@ssjr.com, aic@ssjr.com Phone:203-324-6155
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Applicant Information

Application No	78384557	Publication date	12/21/2004
Opposition Filing Date	04/19/2005	Opposition Period Ends	04/20/2005
Applicant	Catalog Your Assets LLC 5 Fox Mill Estates Maryville, IL 62062		

UNITED STATES

Goods/Services Affected by Opposition

Class 009.

All goods and services in the class are opposed, namely: Cameras and computer software used in capturing, downloading and processing of photographic images

Attachments	DC1268.pdf (3 pages) DC1293.pdf (9 pages)
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Signature	/gsw - aic/
Name	Gene S. Winter, Esq.
Date	04/19/2005

The grounds for opposition are as follows:

1. Applicant seeks to register the mark CYA CATALOG YOUR ASSETS (“Applicant’s Mark”) as a trademark for use with respect to “cameras and computer software used in capturing, downloading and processing of photographic images” in international class 19 (“Applicant’s goods”).

2. Applicant’s application to register Applicant’s mark was filed on March 15, 2004 based upon the intent to use the mark, under Serial No. 78-384,557.

3. Opposer has, since at least as early as 1998, and continues to use in commerce, the marks “CYA” and “CAPTURE YOUR ASSETS” on and with respect to software for data protection and security, data backup, data recovery, checking integrity of data, data archiving and retrieval, data transfer, document backup, and securing data during collaboration (“Opposer’s Trademarks”).

4. Opposer CYA TECHNOLOGIES, INC. is the owner of the U.S. trademark registrations for the marks: “CYA” under Registration Nos. 2471881 and 2886708, and “CAPTURE YOUR ASSETS” under Registration No. 2643149 for “software for data protection and security, data backup, data recovery, checking integrity of data, data archiving and retrieval, data transfer, document backup, and securing data during collaboration” (Opposer’s Goods”). Printouts of the registration records are attached hereto as Exhibit “A”.

5. Opposer is a leading provider of software products. By virtue of extensive use in commerce of Opposer’s Trademarks in the United States, the

relevant trade and public instantly recognize goods bearing its Trademark and associate such goods with Opposer.

6. Opposer's first use and registration of its Trademarks predates Applicant's first use and filing date of "CYA CATALOG YOUR ASSETS" herein opposed.

7. Applicant's "CYA CATALOG YOUR ASSETS" mark is nearly identical in appearance and sound to Opposer's Trademarks.

8. The goods of Applicant and Opposer are substantial similar and customers could believe that Applicant's software contains Opposer's product, or contains features of Opposer's product or is based on the platform of Opposer's product.

9. Applicant's "CYA CATALOG YOUR ASSETS" mark, as applied to the goods set forth in the application herein opposed, so resembles Opposer's CYA and CAPTURE YOUR ASSETS Trademarks as applied to its goods that it is likely to cause confusion, mistake and/or deception.

10. If Applicant is permitted to register "CYA CATALOG YOUR ASSETS" for the goods set forth in the application, confusion of the trade and public is likely to result, such confusion resulting in damage and injury to Opposer.

11. Purchasers and potential purchasers, on seeing Applicant's "CYA CATALOG YOUR ASSETS" mark used in connection with its goods are likely to believe, in error, that such goods are offered in association or affiliation with or under license from Opposer.

12. If Applicant is permitted to register its mark for the goods set forth in the application herein opposed, confusion of the relevant trade and public resulting in damage and injury to Opposer would be likely to result. Any persons familiar with the products of Opposer would be likely to assume that Applicant's goods are sponsored by or produced under license from or otherwise affiliated with Opposer. Furthermore, any objection to or fault found with Applicant's goods provided under its mark would necessarily reflect on and/or injure the reputation that Opposer has established for its products sold under its CYA and CAPTURE YOUR ASSETS Trademarks.

13. Opposer's marks are well known in the respective trade and industry and, if Applicant were permitted to register CYA CATALOG YOUR ASSETS for the identified goods, such registration would result in a dilution of Opposer's rights and goodwill established in Opposer's marks.

14. If Applicant were granted a registration for the mark herein opposed, it would obtain thereby at least a *prima facie* exclusive right to use the mark. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that registration of the mark shown in application No. 78/384557 be refused and that this opposition be sustained.

The filing fee of \$300.00 may be charged to Deposit Account No. 19-4516.

EXHIBIT "A"

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2005-04-15 14:32:15 ET

Serial Number: 78311564

Registration Number: 2886708

Mark (words only): CYA

Standard Character claim: No

Current Status: Registered.

Date of Status: 2004-09-21

Filing Date: 2003-10-09

Transformed into a National Application: No

Registration Date: 2004-09-21

Register: Principal

Law Office Assigned: LAW OFFICE 105

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2004-10-01

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CYA Technologies, Inc.

Address:

CYA Technologies, Inc.

Cyber Park 100 Technology Drive
Trumbull, CT 06611
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009
SOFTWARE FOR DATA PROTECTION AND SECURITY, DATA BACKUP, DATA RECOVERY, CHECKING INTEGRITY OF DATA, DATA ARCHIVING AND RETRIEVAL, DATA TRANSFER, AND SECURE DATA DURING COLLABORATION
First Use Date: 1998-08-00
First Use in Commerce Date: 1998-08-00

Basis: 1(a)

ADDITIONAL INFORMATION

Prior Registration Number(s):
2471881

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2004-09-21 - Registered - Principal Register
2004-06-29 - Published for opposition
2004-06-09 - Notice of publication
2004-05-01 - Approved for Pub - Principal Register (Initial exam)
2004-05-01 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent
Gene S. Winter (Attorney of record)

Gene S. Winter
ST. ONGE STEWARD JOHNSTON & REENS
986 Bedford Street
Stamford, CT 06905-5619

Phone Number: 203-324-6155
Fax Number: 203-327-1096

Thank you for your request. Here are the latest results from the [TARR web server](#).
This page was generated by the TARR system on 2005-04-15 14:32:56 ET

Serial Number: 75464372 [Assignment Information](#)

Registration Number: 2643149 [Assignment Information](#)

Mark (words only): CAPTURE YOUR ASSETS

Standard Character claim: No

Current Status: Registered.

Date of Status: 2002-10-29

Filing Date: 1998-04-08

Transformed into a National Application: No

Registration Date: 2002-10-29

Register: Principal

Law Office Assigned: LAW OFFICE 112

If you are the applicant or applicant's attorney and have questions about this file,
please contact the Trademark Assistance Center at
TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2002-12-02

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CYA, LLC

Address:

CYA, LLC

731 Main Street

Monroe, CT 06468

United States

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: Connecticut

GOODS AND/OR SERVICES

International Class: 009

COMPUTER SOFTWARE FOR BACKING-UP DOCUMENTS

First Use Date: 1998-03-01

First Use in Commerce Date: 1998-04-01

Basis: 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-11-24 - PAPER RECEIVED

2002-10-29 - Registered - Principal Register

2002-08-11 - Allowed for Registration - Principal Register (SOU accepted)

2002-06-17 - Final refusal mailed

2002-04-15 - Communication received from applicant

2002-04-15 - PAPER RECEIVED

2002-03-25 - Non-final action mailed

2002-02-12 - Case file assigned to examining attorney

2002-02-08 - Statement of use processing complete

2001-07-02 - Amendment to Use filed

2001-01-02 - Notice of allowance - mailed

2000-10-10 - Published for opposition

2000-09-08 - Notice of publication
2000-08-02 - Approved for Pub - Principal Register (Initial exam)
2000-07-28 - Examiner's amendment mailed
2000-06-26 - Communication received from applicant
2000-06-13 - Letter of suspension mailed
2000-06-12 - Previous allowance count withdrawn
2000-06-07 - Approved for Pub - Principal Register (Initial exam)
2000-03-15 - Case file assigned to examining attorney
2000-03-15 - Case file assigned to examining attorney
2000-03-14 - Petition To Revive-Granted
1999-11-12 - Petition To Revive-Received
1999-10-28 - Abandonment - Failure To Respond Or Late Response
1998-11-27 - Non-final action mailed
1998-11-17 - Case file assigned to examining attorney
1998-11-10 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent
STEWART I EDELSTEIN (Attorney of record)

STEWART I EDELSTEIN
COHEN AND WOLF PC
1115 BROAD ST
BRIDGEPORT CT 06604

Thank you for your request. Here are the latest results from the [TARR web server](#).
This page was generated by the TARR system on 2005-04-15 14:33:19 ET

Serial Number: 75464349 [Assignment Information](#)

Registration Number: 2471881 [Assignment Information](#)

Mark (words only): CYA

Standard Character claim: No

Current Status: Registered.

Date of Status: 2001-07-24

Filing Date: 1998-04-08

Transformed into a National Application: No

Registration Date: 2001-07-24

Register: Principal

Law Office Assigned: LAW OFFICE 112

If you are the applicant or applicant's attorney and have questions about this file,
please contact the Trademark Assistance Center at
TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2001-08-16

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CYA, LLC

Address:

CYA, LLC

731 Main Street

Monroe, CT 06468

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Connecticut

GOODS AND/OR SERVICES

International Class: 009
computer software for backing up documents
First Use Date: 1998-08-00
First Use in Commerce Date: 1998-08-00

Basis: 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-11-24 - PAPER RECEIVED

2001-07-24 - Registered - Principal Register

2001-04-20 - Allowed for Registration - Principal Register (SOU accepted)

2001-04-20 - Case file assigned to examining attorney

2001-03-22 - Statement of use processing complete

2000-05-18 - Amendment to Use filed

2000-04-10 - Extension 1 granted

1999-12-08 - Extension 1 filed

2000-12-30 - Petition To Revive-Granted

2000-05-18 - Petition To Revive-Received

2000-03-23 - Abandonment - No use statement filed

1999-06-08 - Notice of allowance - mailed

1999-03-16 - Published for opposition

1999-02-12 - Notice of publication

1998-12-18 - Approved for Pub - Principal Register (Initial exam)

1998-11-27 - Examiner's amendment mailed

1998-11-10 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

STEWART I EDELSTEIN (Attorney of record)

STEWART I EDELSTEIN
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1115 BROAD ST
BRIDGEPORT CT 06604
